

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**Fish, Wildlife & Parks Headquarters**  
**1420 E. Sixth Avenue**  
**Helena, MT 59620**

**February 20-21, 2002**

**Commission Members Present:** Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; Darlyne Dascher; John Lane and Mike Murphy.

**Fish, Wildlife & Parks Staff:** Jeff Hagener, Director; and other Department personnel.

**Guests:** Mark Baker, MT Bowhunters Assoc. (MBA); Charlie Johnson, MBA; Kent Brown, MBA; Millie Hicks; Frank C. Thompson; Russ Goddard; Debby Barrett, Repr., Montana House District 34; Steve Pilcher, MT Stockgrowers Assoc.; Buzz Isfeld, Regional CAC, Access Montana Outdoors; Scott Berkenbuel, Access Montana Outdoors; Ralph Martin, Access Montana Outdoors; Steve Scharf, citizen; Mary Ellen Schnur, MT Outfitters and Guides Assoc. (MOGA); Jean Johnson, MOGA; Vito Quatraro, Headwaters Fish & Game Assoc.; Dale Sommerfield; Greg Munther, MBA; Larry Copenhaver, Montana Wildlife Federation; Larry Rattray, MBA; Melissa Tuemmler, Montana Trappers Assoc.; Curtis Spindler, Montana Bass Federation; Robin Cunningham, Fishing and Outfitters Assoc. of Montana; Mack Cole.

**Present but did not sign in:** Alton Fitzhugh, Margaret Moddison.

**Topics of Discussion:**

- 1. Opening - Pledge of Allegiance**
- 2. Approval of Commission Minutes, January 24, 2002**
- 3. Approval of Commission Expenses through January 31, 2002**
- 4. 30-Year Service Award Presentation to Don Childress**
- 5. Prairie Dog ARM Amendment & Annual Rule - Final**
- 6. Game Damage Season Permit Quotas - Final**
- 7. Spring Turkey Season and Quotas - Final**
- 8. Upland Game Bird Seasons - Final**
- 9. 2003 General Season Framework Dates - Final**
- 10. Black Bear Seasons and Spring Quotas - Final**
- 11. Moose, Sheep and Goat Seasons and Regulations - Final**
- 12. Snowmobile Water Skipping - Information**
- 13. SB 437 Rule - Information**
- 14. Automated Licensing System (ALS) - Information**
- 15. Youth Hunting - Information**
- 16. Deer, Elk and Antelope Seasons and Regulations - Final**
- 17. Fishing Tournaments - Information**
- 18. Hebgen Lake No-wake Zones (Region 3) - Tentative**
- 19. SB 437 Rule - Information**
- 20. Smith River Landowner Definitions - Final**

## **21. State Parks Futures Committee II - Information**

**1. Opening - Pledge of Allegiance.** **Chairman Dan Walker** called the meeting to order at 8:05 a.m. and led the Pledge of Allegiance.

**2. Approval of Commission Minutes of the January 24, 2002 Meeting.** **Commissioner Darlyne Dascher** noted on Page 19, "Glasgow" is misspelled.

***ACTION: Commissioner Dascher moved approval of the January 24, 2002 minutes with that correction. Seconded by Commissioner John Lane. Motion carried.***

### **3. Approval of Commission Expenses through January 31.**

***Dascher moved to approve the Commission expenses through January 31, 2002. Seconded by J. Lane. Motion carried.***

**4. Thirty Year Service Award Presentation to Don Childress.** **Director Jeff Hagener** read a letter of commendation and presented **Don Childress**, Wildlife Division Administrator, with an award for his 30 years of service to Montana Fish, Wildlife & Parks.

At this time, **Chairman Walker** presented **Director Hagener** with a bear head tie tack in commemoration of his one year with Montana Fish, Wildlife & Parks.

Before beginning the main topics of this meeting, **Walker** stated for the public that testimony would not be taken during the meeting as hearings on the quotas and seasons had been conducted throughout the state and comments were taken during those hearings.

**5. Prairie Dog ARM Amendment and Annual Rule - Final.** **Heidi Youmans**, Small Game Bureau Chief, reviewed for Commissioners the proposal for prairie dog shooting on public lands, which was previously adopted as a tentative regulation. Commission approval to adopt this regulation is being asked.

Prairie dog shooting and the effects are controversial. Some consider it an important form of control and recreation, and vital to local economies. Others feel it does not help with control, and some feel it is immoral and should be banned. Based on evidence, shooting can reduce density and the growth rate of populations. Recognizing the conflicting views, the Prairie Dog Working Group developed the proposed tentative. This would address conservation and policy needs that pertain to the small white-tailed prairie dog population; it deals with the black-footed ferret reintroduction and also with the controversial firearm discharge closure on two areas of BLM land. It would also improve Montana's stance in regard to the listing criteria used by the U.S. Fish and Wildlife Service. The proposal is designed to aid in directing shooters from public to private lands to help landowners in prairie dog control. It would provide a basis for evaluating the effects of prairie dog shooting on population dynamics.

In answer to a previous question from the Commissioners, **Youmans** gave a synopsis of the status of other states regarding prairie dogs. North Dakota and New Mexico's plans were approved in November, 2001. Kansas' plan is pending approval this month, and Oklahoma and Texas' plans should have been approved last month. South Dakota's plan should be approved next month and Wyoming's plan has been tabled. However, the Wyoming Commission is going to readdress the decision at their next meeting.

As to shooting regulations, other states have various closures, season dates and species that may be hunted.

**Dascher** stated she is glad the Department is moving ahead with a study so there will be accurate information regarding prairie dog shooting. She has talked with Pete Gober, U.S. Fish and Wildlife Service (USFWS) in Pierre, South Dakota. Mr. Gober is adamant that shooting prairie dogs will not hurt the populations and wants that criteria removed for listing prairie dogs. **Youmans** realizes this has been an area of disagreement. There has not been good evidence on this from any study. Montana and other states submitted information to the USFWS for review. This is underway and a response may be forthcoming in the next couple of months. **Dascher** asked that the Commission be kept up to date on any action by the USFWS.

**Dascher** asked for an explanation as to why the Region 6 area could not proceed with the regional plan for prairie dogs. **Childress** explained the funding for all programs needed to be adequate. Monies cannot be redirected from deer and elk programs in order to fund the prairie dog plan. **Dascher** expressed frustration with having a state plan specifying the regions should develop their plans and later told differently. **Commissioner Mike Murphy** inquired as to the enforcement of prairie dog shooting. As the public has been accustomed to being able to shoot prairie dogs at any time, anywhere, it will take time for people to realize they can no longer do this. **Youmans** said the Law Enforcement Division had been contacted and they anticipate enforcement of the prairie dog shooting closure on an as-requested basis. The shooting will be addressed yearly and will be part of the tentative process.

**J. Lane** stated reviewing in a year would not give much information on which to base a decision. He suggested three years in order to develop a track record. **Youmans** said they anticipate good information from a study in Phillips County and other involved agencies. **Dascher** agreed with **J. Lane's** comments and said two years would be better. **Hagener** asked if changing the time frame could be done at this time. **Bob Lane**, FWP Chief Legal Counsel, said it would depend on how the proposal was presented to public. If it was that the rule would be reviewed on a yearly basis, it could not be changed at this time. **Youmans** said public understanding now is that the review will be on a yearly basis. **Dascher** asked if the next proposal could be worded for a two-year time frame.

**ACTION:** *Dascher moved to approve as presented by the Department. Seconded by Commissioner J. Lane. Motion approved.*

**6. Game Damage Season Permit Quotas - Final.** **Glenn Erickson**, Wildlife Division Management Bureau Chief, presented the proposed tentative regulations. The only change is to raise the number of permits for antelope in Region 5 from 50 to 300. Increasing drought conditions have contributed to additional game damage problems by antelope in winter wheat.

***ACTION:** As there was no discussion on the change in Region 5, **Walker** moved to approve the increase in antelope from 50 to 300. Seconded by **Commissioner Tim Mulligan**. Motion approved.*

**Erickson** requested the motion be clarified and the original motion indicated it was for Region 5 only.

***ACTION:** **Mulligan** moved approval as amended. Second by **Dascher**. Motion approved.*

**7. Spring Turkey Season and Quotas - Final.** **Erickson** reviewed the changes to the proposed changes for spring turkey. The two proposed changes include changing the application deadline to March 15 from March 16. As the 16th is a Sunday in 2003, the change would facilitate sportsmen being able to have their application postmarked by the deadline. The other change is to increase the number of permits in some counties.

***ACTION:** **Murphy** moved approval of the spring turkey with the changes as proposed. Second by **J. Lane**. Motion approved.*

**8. Upland Game Bird Seasons - Final.** **Erickson** presented the proposals for upland game bird seasons. There are no changes. A correction to be made is to add the Canyon Ferry WMA closure to the fall turkey season. It is in the spring season but was inadvertently left off the fall season.

***ACTION:** **Mulligan** moved, based on public concern the delay in season opening would concentrate a large number of hunters in certain areas, to drop that proposal and leave it the same as the rest of the state. Second by **Murphy**.*

**Murphy** asked **Dascher** what the general feeling of the community was on this change. **Dascher** said the local businesses strongly feel they have suffered a severe economic loss. She questioned if it was due to not having the nonresident hunting on opening weekend. The pheasant population was down and there was the increase in nonresident license fees. These factors probably contributed to the lack of hunters. She has reservations on exempting the three counties (Phillips, Daniels and Roosevelt) from the regulations for the rest of the state. This could be setting a precedent. **Lane** agreed that exempting certain counties would be setting a precedent and it should be the same statewide.

**Walker** summarized the motion is to revert the three counties back to the two-day delay for pheasants as well as the Canyon Ferry WMA closure. **Dascher** said that although she understands the concerns of businesses, the Commission's mandate is to manage the resources of the state and not manage for an economic benefit to someone. The first priority needs to be to the resource. **Walker** said he would propose revisiting the rule next year on a statewide basis.

*Continuation of ACTION: Mulligan had moved to change three counties back to comply with rest of state. Motion approved.*

*ACTION: Mulligan moved approval of Department recommendation for adoption of upland game bird rules as amended. Second by Murphy. Approved.*

**Erickson** clarified that some of the last two spring turkey and upland bird seasons were passed for one year only. Some are two years and some are one year.

**9. 2003 General Season Framework Dates – Final.** - There are no proposed changes. The upland bird section is left open for the 2003 season.

*ACTION: Lane moved to approve; seconded by Walker. Motion carried.*

**10. Black Bear Seasons and Spring Quotas – Final.** A new section previously approved by the Commission in the black bear identification test has been added. In Region 5, it is proposed to change BMU 510 for the spring season quota from 9 to 5 total, with females from 3 to 2.

*ACTION: Walker moved to adopt the black bear seasons as amended with the change in 510. Second by J. Lane. Motion adopted.*

**Erickson** noted the black bear regulations are for a two-year period; however, the quotas can be changed as necessary during that period.

**11. Moose, Sheep and Goat Seasons and Regulations – Final.** **Erickson** reviewed the proposed changes for moose. In the 100 series, no changes are proposed. In Region 2, the only change is in District 212. For 212-01 the dates have been changed to read September 15 to December 1 and raise the quota of antlered bulls from seven to eight. In 212-02 the change is for the same dates and raise the quota from two to five. For Regions 3 and 4, no changes are proposed. In Region 5 a change is proposed for 514-01, which would increase the quota from four to five, and in 514-02 the quota would be increased from two to three. The season dates would be September 15 to December 1. This is also a two-year regulation with the quotas adopted annually.

*ACTION: Mulligan moved to approve the moose seasons as amended by the Department. Second by Murphy. Motion approved.*

For **bighorn sheep** there are no proposed changes. **Mulligan** asked about the Gates of the Mountains season in light of the bighorn sheep die-off. **Joel Peterson**, Region 3 Wildlife Manager, told Commissioners an additional survey determined there were sheep that had not been previously seen, and they were apparently in good health. For this reason, he recommended the one either-sex ram season as in the tentatives. **Murphy** agreed with the Department recommendations.

**ACTION:** *Murphy moved to approve the bighorn sheep seasons. Second by J. Lane. Motion adopted.*

For **mountain goats**, there are no changes in Regions 1, 2, 3 or 5. Region 4 has a clarification to HD 451, which changes the boundary. There had been discussion on increasing the boundary to include the Big Belt Mountains down to Highway 12. Public comment supported this proposal. **J. Lane** said he received a petition from the Pondera County Sportsmen on HD 414 and they are asking for one permit in that area because the goat population has increased. **Graham Taylor**, Region 4 Wildlife Manager, said there is concurrence with this request and a new goat hunting district is proposed for one permit. The proposed district would be HD 442 for one either-sex tag, and the season dates would be September 15 to December 1.

**Dascher** pointed out there is an error in the closing dates to some districts. All districts that normally ended November 25 should be changed to December 1.

**ACTION:** *Dascher moved to change the closing dates for mountain goats to December 1 instead of November 25. Second by Walker. Motion approved.*

**ACTION:** *J. Lane moved to create a new goat hunting district 442, allowing one either-sex permit. Second by Murphy. As this proposal had not previously been put out for public comment, Chairman Walker asked for comment from the audience. Mary Ellen Schnur, Montana Outfitters and Guides Association, commended the Commission and the Department for increasing hunting opportunity by this proposal. Motion adopted.*

**ACTION:** *Mulligan moved approval of the goat season regulations as amended. Second by J. Lane. Motion approved.*

**Murphy** requested further information on HD 451, extending the district boundaries, and the possibility of additional tags in the district. He asked about the possibility of splitting the district into two segments to keep pressure off certain areas. **Erickson** said if the district were to be split it would have to be done at this time, but if increasing the permits was all that is desired that could be done at a later date. The region has not made any recommendations on this. **Murphy** asked for further information on this. **Taylor** said there are presently two either-sex goat permits in that district. **Murphy** indicated he would be requesting additional tags in the future.

**Walker** said as the Commission meeting is ahead of the agenda schedule, informational items scheduled for February 21 will be rescheduled for discussion this morning. Deer, Elk and Antelope Seasons and Regulations will be heard as originally scheduled this afternoon to accommodate members of the public.

**12. Snowmobile Water Skipping – Information.** **Beate Galda**, Enforcement Division Administrator, updated Commissioners on this issue. There have been two public hearings and the comment period ends on February 22. Thirty written comments have been received so far with 20 supporting the rule and 10 opposing it.

**13. SB 437 Rule – Information. Paul Sihler,** Field Services Division Administrator. This legislation was supported by the Department. It provides an alternative to a kill permit in a game damage situation. With a kill permit, the landowner does the harvesting, the meat goes to a food bank and hunters lose hunting opportunities. These permits are issued when the Department and landowner determine it is necessary to harvest animals. These hunts will be when the number of animals to be killed does not exceed 12. Over that number, a game damage hunt should be considered. Very few comments have been received on the rule. To date, permission has been given for five supplemental hunts. The eligibility period to hold this type of hunt runs through February 15. A review of the hunts is being done to determine the game damage trigger in each instance, how many hunters participated, were the hunters public or private, how many animals were harvested, and other necessary information. **Walker** noted that Senator Cole, sponsor of the legislation, will be attending tomorrow's meeting to talk about the rule. **Walker** said where a landowner designates who some of the hunters will be, those hunters are still public hunters and it is important to keep this in mind. **Sihler** agreed and said one of the issues is what is the definition of public hunting that triggers eligibility for the game damage program. This has not adequately been addressed.

**Walker** indicated he thought the present policy for game damage hunts the Department has been following should be continued. Changing the rules does not seem to be necessary. **Sihler** replied there is a lot of latitude in the ground rules as to how they can be implemented. There is preliminary evidence to suggest there is not consistency in how the rules are applied.

**14. Automated Licensing System (ALS) - Information. Barney Benkelman,** Chief of Information Technology Bureau and Automated Licensing System Project Manager. The majority of the equipment is now installed throughout the state. Training is conducted at this time and should be completed by the end of February. **Benkelman** updated the license statistics which were previously given to Commissioners. The new system allows the numbers given to be current as of this morning. It is important to ensure people have realistic expectations. With any new automated system, there will be problems that will be worked through and corrected as quickly as possible. Attempts are being made to influence sportsmen's buying habits, and trying to educate them not to wait until the last minute to buy licenses. Training is more complex as the system involves more than licensing. FWP staff members are prepared to assist dealers. Bonding for license agents will be reduced with implementation of the new system and the need for bonds may be eliminated. There is also the possibility of increasing the commission fees. The Legislature stated within the legislation the contribution by the license agent is a phone line. A reimbursement policy has been established for agents having a dedicated phone line for the systems, and FWP will assist with the cost. The Help Desk is presently contracted to an out-of-state firm. Their staff members are learning about Montana Fish, Wildlife & Parks in order to assist license agents.

**15. Youth Hunting - Information.** **Joel Peterson**, Region 3 Wildlife Manager, summarized the original proposal originated by the Missouri River Headwaters group. Originally youth 12 to 14 would be allowed to participate in extended hunts in several districts in Region 3. Commissioners then decided youth hunting should be reviewed on a statewide basis. The proposal was put out in the tentatives for comment by sportsmen. Some concerns were that it is not clear throughout the state as to how the plan is being portrayed. The proposal was well received in Region 3. The tentatives indicated a youth could select a district and this is one of the issues that should be resolved. Another issue is a free permit to a youth to give him/her the opportunity. The permit would need to be obtained at the regional headquarters. Comments were that it would be more convenient if the permit could be obtained in Helena through the mail or the regional headquarters, if a permit is necessary. To give a clear understanding of what was put out to the public, **Erickson** read what was in the letter on the tentatives. Comments obtained addressed the various aspects of the issue, i.e., in Region 1 most comments were against allowing youth permits for elk. If youth permits were necessary, they should be for deer. Regions 1 and 2 previously had youth permits for deer and it was not a successful program.

The logistics of issuing permits have been researched and one issue is that the time of the drawings is not until August. If youth want to participate, the time between being notified of whether or not the youth was successful in the drawing and the time to apply for one of the special youth permits for archery is minimal. If youth permits are to be allowed, the deadline would have to be extended. Also, what is needed to get this type of permit? There is a fee for permits so there would have to be a charge for youth permits as required by statute. Where to issue the permits from has been discussed. It could be either by mail from Helena or picked up at one of the regional offices.

Direction from the Commission is needed on how broad a program they want developed, and what is the purpose in such a program. There is good public support for a youth hunt but how to do it and where need to be resolved. **Walker** asked if using the present drawings had been examined to use for the youth permits. **Erickson** replied it could be done. A separate season type would have to be set up. **Walker** asked if the drawing applications could be utilized to accommodate the proposed youth permits. **Nancy Kraft**, License Bureau Chief, said the present system would not accommodate this. **Walker** has a problem with the time frame for notification. **Erickson** suggested using a third choice for this purpose. **Mulligan** asked if the general season for youth 12-14 could include legal bull or antlerless elk for desired districts, if ALS would be able to determine between senior and youth, and would the system be able to determine a harvest survey. **Peterson** said in some districts a permit is for an antlerless animal only, and there are some areas where a bull plus an antlerless can be killed. In such a situation does the Commission want it dependent on the designation of the district? Mulligan affirmed this is the intent. Another season type would be created based on the age bracket. For clarification purposes, **Erickson** said his understanding is there would be a general season in an area that might be brow-tined bull and underneath, it may say "brow-tined for youth 12 to 14." This does address a specific general season.



**Vito Quatraro**, Headwaters Fish and Game Association. The separate season type is a good suggestion. The intent is not to take away an opportunity for youth where they would have to trade a chance for a bull for a cow. There is some concern about having the program by hunting district. It would be better if it were region-wide. The association would like such a program to be implemented this year. However, if that is not possible, they request a pilot program be implemented in Region 3, at least. **Walker** said he did not see why this type of program could not be implemented. A new general season type would be needed. **Peterson** asked if the Commission's intent when talking about a general season, do they mean the five-week gun season and not the extended. **Walker** affirmed this is the intent.

Wildlife Division personnel will draft a proposal and determine the specific regions which could be set up for a youth hunting permit program this year and present the draft to the Commission during the afternoon session.

#### **16. Deer, Elk and Antelope Seasons and Regulations - Final.**

**Youth Hunting Proposal** – Commissioners were given a proposal based on their suggestions. Certain districts from Regions 1, 2, 3, 4, and 5 were selected for youth elk hunting permits.

***ACTION:** Mulligan moved to approve the proposal as presented by the department. Second by J. Lane. Walker said if a problem appears with a district to contact the commissioner concerned. Childress asked that the record reflect these are not a permit but a license with a season type that only requires a person to have their youth license. Motion carried.*

**Walker** again stated for members of the public in the audience that comment would not be taken at this time as there had previously been ample opportunity for input.

**Hunter Orange Requirement.** No changes are proposed in the hunter orange regulations. A summary of other states' rules and regulations was previously sent to Commissioners. There is a wide variety of regulations on this subject. Public comments were split on the issue. **Mulligan** has concerns with this regulation as he feels in the future each time a damage hunt is needed a situation would be created where there would be animosity between the need to support a landowner's need, a management need and the archers' interests. This requirement should be totally justified before doing this. He also wonders if this is only to protect FWP interests and, if so, this is not a good reason for the requirement. **Jack Lynch**, FWP Legal Counsel, said the state has a responsibility to not create additional risk for damages than is absolutely necessary. The Commission does have the authority to make this rule. Lynch believes the impact of this requirement would be minuscule. **Mulligan** said in that concept the regulations should be required in other areas in order to protect the Department from being sued. He does not think the impact is minuscule. After the survey, it was clear most states and agencies do not have this requirement. **Lynch** said the requirement to wear hunter orange warns potential hunters of the presence of another human being who is not a target. In order to be consistent it should be required in areas where there are bowhunters and rifle hunters at the same time. **Murphy** also opposes the requirement. He believes hunters have a responsibility to make sure what their target is.

**Dascher** noted that these hunters are going to be on private land. She feels archery hunters would want to wear orange to ensure other hunters know they are there. **Lane** also believes people have to be responsible for their own actions. He is opposed to the proposed requirement. **Mulligan** said the Department may want to look at the proposal further from a risk base and include bird hunters and others in the field who are reasonably at risk. This should be part of the picture rather than picking one small piece of it without looking at it from a need basis. He would support this, but doing it only for this small part the consequences are not worth it. **Mulligan** would support the concept if it can be shown to be beneficial. **Walker** said this requirement involves mainly private property with a damage hunt. The landowner who allows hunts on his property may be at risk for problems. The lost hunting opportunity for bowhunters is very small.

***ACTION:** Walker moved to approve the hunter orange requirements as put forward by the Department in the tentatives. Seconded by Dascher. Dascher and Walker voted aye. Mulligan, Lane and Murphy voted nay. Motion failed.*

**Modified Archer's Permit** - Comments were generally in favor of the proposal to allow disabled hunters exemption from the equipment restriction if they meet certain disability criteria. There has not been a lot of comment from the disabled community on this issue. The bowhunters deserve credit for bringing this issue forward. They have been trying to get additional regulations in place in order to allow more disabled archers an opportunity to hunt. However, they do not want crossbows allowed throughout the season for all bowhunters. The U.S. Fish and Wildlife Service is reviewing this issue and will be deciding if Montana is in violation of the ADA laws.

***ACTION:** Dascher moved to accept the proposal as presented by the Department. Seconded by Murphy.*

**Walker** said at this time he was going to break the "no comment" rule and asked members of the public affected by this rule if they had comments.

**Steve Scharf** - Mr. Scharf said he did not feel it was reasonable to ask him to modify his hunting equipment. It is better to use equipment that is already on the market, and the crossbow should be accepted.

*Continuation of ACTION: Motion approved.*

**Deer - Region 1** - HD 102, strike "Valid on private land only east of Farm to Market Road."

***ACTION:** Murphy moved to approve the 2002 deer hunting seasons for Region 1. Second by Mulligan. Motion carried.*

**Region 2** - HD 200 involves a boundary change to enlarge 200-02 to better encompass areas elk inhabit during the summer. HD 202 changes the Special B License, decreases the antlerless whitetail in 202-02, and increases them in 202-03. This is an attempt to increase the antlerless whitetail harvest in this area.

**ACTION:** *Murphy moved approval of the 2002 deer hunting seasons for Region 2. Second by Lane. Motion carried.*

**Region 3** - There are no proposed changes. This region does include the North Hills Weapons Restriction Area. **Mulligan** asked about HD 380-04. It is currently 50 either sex whitetail or antlerless mule deer B licenses. He thought the intent was to have it be antlerless whitetail or mule deer, not either sex. This will need to be changed to 50 antlerless whitetail or antlerless mule deer. In HD 333 there have been chronic game damage problems. **Peterson**, in answer to **Mulligan's** request to come up with a solution, proposed changing a portion of HD 333 to HD 333-04. This district would be in the northeast portion of hunting district 333 with the following boundary: intersection of Highway 359 and Highway 287 north of Harrison, and north along 287 to Interstate 90 at Three Forks, and westerly along interstate to its intersection with Highway 359 at Cardwell, and easterly along 359 to its intersection with 287, the point of beginning. **Mulligan** requested 50 permits in this area to be for the regular general season.

**ACTION:** *Mulligan moved to amend the Region 3 deer proposals on 380-04 to change to read to 50 antlerless whitetail from either sex, and to add 333-04 as described. Second by Dascher. Motion carried.*

**ACTION:** *Mulligan moved approval of the Region 3 deer seasons as proposed by the department. Second by Dascher. Motion carried.*

**Region 4** - There is a change in the boundaries for HD 400 and HD 404. This just clarifies where the boundaries are. For HD 424, 425, and 442 they are just rewording changes to make it easier to understand.

**ACTION:** *Lane moved to accepted the 400 series hunting district proposals as proposed by the Department. Seconded by Murphy. Motion carried.*

**Region 5** - A change to HD 510-02 to increase the B licenses from 75 to 150 for antlerless mule deer valid outside the National Forest boundary only. Changes for HD 520 are increase in the special B licenses, the antlerless mule deer licenses, and striking of "east of Rock Creek" in the boundary description.

**ACTION:** *Walker moved to accept the changes to Region 5 as put forward by the Department. Seconded by Lane. Motion carried.*

**Region 6** – Under HD 630, the Corps of Engineers manages this hunt and they requested the dates be changed to be November 1 through December 1, and change the information contact from FWP in Glasgow to the Corps of Engineers. The quota has not changed. For HD 650 there is a boundary change. This is to include the Flat Lake area of HD 652 into HD 650 to allow the area to be opened to archery, shotgun or traditional handgun or muzzleloader during the general season. The HD 699 correction is for differentiating the whitetail B licenses that are available.

**Dascher** had proposed 50 B licenses in HD 652 because of game damage. As the number of does seems to have decreased, she is asking that the quota be reduced from 50 to 25.

**ACTION:** *Dascher moved to accept the Department's recommendations to Region 6 with that change. Second by Walker. Motion carried.*

**Region 7** - HD 797 change is to make the licenses not valid for the C.M. Russell Wildlife Refuge. This will keep nonresident and resident restrictions consistent.

**ACTION:** *Walker recommended adoption of the Department recommendations for Region 7. Second by Dascher. Motion carried.*

**Elk - Region 1** - HD 101 change is to create a different season type and reduce the permits. HD 101-00 would be 10 permits for antlerless elk, valid in the Tobacco Plains portion of the district only. HD 101-01 would have an October 27 to January 31 season with 15 permits valid in the remaining portion. HD 109 change is related to HD 101. There would be 25 permits for antlerless elk for the entire district during the general season and on private land only from December 2. **Murphy** said he had a request to look at the possibility of providing a late season hunt in HD 121 for disabled hunters, about four or five permits. This would need to go out for public comment so it can't be done this year but should be considered for next year.

**ACTION:** *Murphy moved approval of the 2002 elk hunting seasons for Region 1. Second by Lane. Motion carried.*

**Region 2** - HD 200-02 was left off the information sheet but should have been included. HD 204 has a proposed change for the Special A-7 licenses. In the description of where the licenses are valid, the dates "September 1 through October 26" should be included following "private land . . ." Under HD 212-04, a note should be made that landowner may assign time period. This is the area for hunting from a vehicle for disabled. In HD 282, allow A-7 applicants to apply as a party for safety reasons. HD 285 deletes the 100 A-7 licenses and replaces them with brow-tined bull or antlerless permits. This would allow more hunting opportunity. HD 292 is a change to strike the section "outside the National Forest boundary . . ." HD 298 is a change in wording to make it clearer. Three different season types will be listed. Then the specific hunting districts types applied for will be listed. The same license is valid for all the districts but in some it is valid for a different season date or different portion of the area. **Murphy** stated he has received a number of calls opposing the changes in hunting districts 283, 285 and 292, changing from any bull to a brow-tined bull. Based on discussions with the regional biologist, there doesn't seem to be a biological reason not to leave the area as is, any bull. This would be for areas 283 and 285 only. For HD 292, there appear to be good biological reasons for going to brow-tined bull. **Firebaugh** said if going with any bull, in HD 285 there are 100 either sex, they would rather have them revert to the A-7.

**ACTION:** *Murphy moved for an amendment to change these to reflect that HDs 283 and 285 would be left as "any bull" districts with the changes to antlerless, and leave the change in HD 292 to "brow-tined." There were individuals who had opposition to the change in HD 292, but believes there is good biological rationale to leave as a brow-tined area. Seconded by Mulligan. For HDs 283 and 285, general season antlered bull and archery season would be either sex. In HD 285 the 100 A-7 antlerless licenses would be kept in. Motion carried.*

**ACTION:** *Murphy moved approval of the Region 2 elk seasons.*

*Walker stated that to clarify the minutes, this had just been done. The amendment has not been voted on, only the 200 series hunting districts. The last vote will have to be struck. There has been a motion and a second on Commissioner Murphy's amendment. Motion carried.*

**ACTION:** *Walker said there has been a motion to accept the Department recommendations as amended. Second by Mulligan. Motion carried.*

**Region 3** - The only recommended change is in HD 314-06. This is an expansion of the area.

**ACTION:** *Mulligan moved approval of Region 3 elk seasons as proposed by the Department. Second by Dascher.*

**Mulligan** asked if in the wording it would be better if the North Hills Weapons Restriction came before the special permit required on antlered mule bucks. **Erickson** said this would be done. **Walker** proposed amending HD 398 to delete 320 and 330 from where these permits are valid. This proposal has been discussed with the Region 3 biologists and is agreed to.

**ACTION:** *Mulligan amended the original motion to remove 320 and 330 from HD 398. Second by Walker. Amendment approved.*

**ACTION:** *Walker moved to amend HD 398 by deleting the district in its entirety. This area has limited access. Biologist has worked with landowners to come up with means of access for a better harvest. The access as agreed on is the basis of the A-7 licenses through permission slips. He is concerned about the use of A-7 in this instance. Mulligan seconded. He also has some of the same concerns but also believes the work into this is considerable. He does believe this is worth a try. Walker voted aye. Mulligan, Dascher, Lane and Murphy opposed. Motion for amendment failed.*

**ACTION:** *Mulligan moved approval of the 300 series elk seasons as amended. Second Murphy. Motion approved.*

**Region 4** - HD 401-01 increase either sex permits to 50; this change is also valid in HD 610 and HD 403. HD 401-03 changes the dates to read September 23 to October 20, and decreases the number of permits to 60. HD 401-04 changes the dates to be November 11 to December 8 with 80 permits. HD 403 is being deleted as it is included in HD 401. HD 412 change is to increase length of season. HD 450 changes the season dates to be September 1 to December 1.

**J. Lane** asked that language be included in the regulations for HD 421 and 423 stating that access is limited and hunters are encouraged to secure access prior to application. **Lane** also noted there is considerable concern about access in HD 425, the Cobb Ranch. **Graham Taylor**, Region 4 Wildlife Manager, reviewed for Commissioners the changes proposed for HD 425, which may alleviate the problem. First would be to strike 425-01 and 425-02. Replace these season types with new 425-01 that would address five either sex elk permits; one permit valid per week period for the five week general season, and the permits would be valid outside the Sun River Management area and not counted against HD 424 quota. HDs 425-03 and 425-04 would shift up to 02 and so on. A block of five either sex permits is being offered and that is designed to trigger the eligibility for landowner preference. It is the Department's intention to contact hunters prior to the season and direct them to the Cobb Ranch so that personnel from Cobb Ranch have face-to-face interaction.

**ACTION:** *Lane moved to amend HD 425-01 to have five either sex permits, one valid each week from October 27 to December 1. **Murphy** second. **Motion carried.***

**Lane** said it is important to acknowledge that the Cobbs have agreed to allow access to hunters.

**ACTION:** *Lane moved to accept Region 4 elk seasons as proposed with the amendment. **Murphy** seconded. **Motion carried.***

**Erickson** noted in HD 403 should also include the wording "valid in HD 610."

**Region 5** - For HD 520-09, the dates should be changed to read October 27 to December 15. In HD 590 the season dates are being changed back to October 27. For HD 590-01 there should be 75 permits.

**ACTION:** ***Walker** moved to accept the 500 series elk hunting districts as put forth by the Department. Second by **Dascher**. **Motion carried.***

**Region 6** - There are no proposed changes.

**Dascher** said there had been a proposal to combine two districts. Personnel from the CMR had contacted the Department at the last minute opposing this proposal.

**Bill Berg**, C.M. Russell Wildlife Refuge. It is his understanding the CMR biologist at Sand Creek did not feel the Memorandum of Understanding (MOU) was followed. There is a problem with congestion of elk hunters in some areas now, and combining the districts would increase the problem. They propose, rather than eliminating the districts, keeping the districts the same allowing either sex tags in HDs 621 or 623, but cow or antlerless elk tags would be valid only in the original unit. They prefer the either sex tags be valid for both areas this first year and, if there are no problems, then consider combining the districts next year.

**Dascher** said she would like to see hunters hunt between the two districts as the elk move between the districts and the numbers of elk are high. **Harold Wentland**, Region 6 Wildlife Manager, said their preference is to combine the districts, then look at the results and if there is a problem, return to the two districts. He would like the recommendation to remain as is. **Wentland** believes the MOU is working and there is good communication between the groups.

**Dascher** told Mr. Berg she would like to try the proposed change and if problems develop, then revisit the issue and change back to the present status or whatever else is necessary to resolve the problems.

**ACTION:** *Dascher recommended going with the proposal. Second by Walker. Motion carried.*

**Childress** - Since the Commission has passed the recommendation to combine, he would like it made part of the record that Region 6 will work with CMR personnel to develop criteria addressing their concerns so there is documentation during next year's season setting of what has occurred.

**Region 7** – There is only one change affecting the four listed areas: HDs 700, 701, 703 and 798. Permits valid under a 798 designation were originally proposed which would include all the areas. That would have forced sportsmen to apply for the unlimited permits; this is not what was intended. The proposal now is to delete 798, and under 700 the unlimited either sex permits would be listed for the archery season. Under 701 and 703 an archery season would be created for either sex.

**ACTION:** *Walker moved to accept the Department recommendations for Region 7. Second by Dascher. Motion carried.*

**Dascher** noted she had received a petition from sportsmen near Colstrip opposing the general season. This proposal does give additional opportunity to harvest elk in this region and should be tried.

**Erickson** said a needed change for elk seasons in 101-01 has been found. Rather than the ending date of January 31, the dates should be October 27 to December 1.

**ACTION:** *Murphy moved to approve this change. Second by Dascher. Motion carried.*

**Antelope** - The quotas have been corrected for 2001. Under multi-region archery, add: "These licenses are valid in the following districts: any district beginning 3, 4, 5, 6, 7." Strike out 455; HD 313 has already been deleted. An extra doe/fawn license is being provided for archery hunters. The following statement will be added: "Successful applicants may be offered the opportunity to purchase one doe/fawn in the Region 5 districts listed or up to two doe/fawns in the areas that begin with number seven." When the final quotas are set, it will be decided how many of these licenses will be offered in those districts.

A change is recommended for HD 381 to add another season type to address agricultural damage. For HD 690, successful applicants may be offered one doe/fawn in addition to either sex or doe/fawn license to address a very high population of antelope. **Dascher** requested HDs 630-02 and 670-02 be deleted as the herds are poor and need time to rebound.

**ACTION:** *Dascher moved in Region Six to accept the Department change and to add HD630-2 and 670-02, delete the 25 doe/fawn tags. Second by Walker. Motion carried.*

**Walker** commented on the 500 series districts. He suggested a brief article in an employee newsletter stating the proposal is to accomplish harvest objectives and at the same time work with sportsmen and landowners for access opportunities. Many people, including Department employees, should understand what is being done. **Mulligan** agreed with this suggestion; education is important to answer many of the questions. **Erickson** said this would be done.

**ACTION:** *Dascher moved to accept the department recommendations on antelope. Second by Murphy. Motion carried.*

**Walker** reviewed a letter from Pheasants Forever and asked what the department response would be. **Childress** has visited with Bill Nankivel of Pheasants Forever. There is a potential problem with early mowing and upland birds. **Childress** will meet with the regional wildlife managers on February 21 and review all leases to determine if there is a problem. Mr. Nankivel indicated he was raising the question in light of the other pheasant issues that have been brought out. A summary of the findings will be given to him. **Walker** asked if Mr. Nankivel was asking for Commission support to delay the haying and make the Commissions' intentions known regarding the CRP program. **Childress** replied this was not mentioned in their conversations; however, he will explore this further. **Dascher** noted a rotational haying might be worth exploring with Mr. Nankivel.

**Hagener** reviewed conversations with Greg Gutschell regarding the article in "North American Hunter." Mr. Gutschell had previously talked with both **Hagener** and **Nancy Kraft**. He had mainly inquired about youth discounts. His article indicates prices of Montana licenses are the biggest discrepancy between residents and nonresidents, and the prices are incorrect. The main focus of the article is the difference between residents and nonresidents. **Dascher** asked if the magazine would allow a rebuttal to get the facts straight. **Walker** asked that the Department respond to the article and welcome hunters to Montana. **Hagener** will work with **Ron Aasheim**, Conservation Education Division Administrator, to follow-up on this issue and mention that the inaccurate numbers should be clarified. He agreed with **Dascher's** suggestion to include how the dollars are spent.

Meeting adjourned at 4:15 p.m. on February 20, 2002.

## **February 21, 2002**

The meeting resumed and was called to order by Chairman Walker at 8:10 a.m.



**17. Fishing Tournaments - Information. Chris Hunter**, Fisheries Division Administrator. Public hearings were held on the proposed rules in Glasgow, Billings and Missoula. The comment period ended February 15, 2002. **Hunter** does not foresee problems in resolving the issues raised in the comments. These will be presented at the March Commission meeting. **Walker** stated there seemed to be confusion concerning washing of boats and asked that information be included in the flyers sent to tournament operators. **Hunter** said this subject received the most comment and it would have to be made clearer what the Department's expectations are. **Dascher** asked for the enforcement area to be clarified.

**Curtis Spindler**, Montana Bass Federation - One problem his organization has with the new rules is consistency. They are also unsure about who is responsible for trash removal and latrines at public boat launches. The Montana Bass Federation doesn't think they should be. A main concern is, is this a social or biological issue? The warm water regulation seems to be a biological issue. Proof the fish are being stressed has not been provided. He has some data indicating there is no mortality. The bass groups are being tied into the walleye groups, who conduct more tournaments, and this should not happen. Montana Bass Federation would like clarification on whether the issues are social or biological.

**Hunter**, responding to Spindler's comments, said the portion of the rule stating "Catch and release tournaments with weigh-in formats are prohibited during the warm water period of July 1 through September 15" will be removed and this should address the problem. The regional fisheries manager can make the determination whether the tournament should be held based on the time period and the body of water. **Dascher** noted it would not take care of Ft. Peck. She indicated the bass federation should have been involved earlier. She does not think changes should be made at this time but their concerns can be reviewed during the next annual review of the plan. **Walker** requested follow up by the department on the discussion between the Montana Bass Federation and regional biologists. **Dascher** said since the tournament people are willing to work with the Department, she hoped something could be learned from this in order to avoid conflict in the future. **Hunter** agreed and pointed out there is no prohibition against a paper format tournament during any time of the year. If the bass groups were willing to use the paper format, they could hold a tournament at any time.

**Dascher** said she is willing to work with bass interests but does not want to create other problems with the tournaments on Ft. Peck.

**18. Hebgen Lake No-Wake Zones (Region 3) – Tentative. Beate Galda**, Law Enforcement Division Administrator. Herman LaVine has requested a no-wake zone at the Rainbow Point Campground. Following Commission instructions, regional personnel inspected the area and developed a proposal. All areas with problems are included in this proposal. They hoped to have the rule in place for this summer; however, most homeowners would not be in residence until late spring, which would not be enough time to contact them to obtain their comments on the proposed rule.

**Alton Fitzhugh**, Consultant, PPL Montana. - **Mr. Fitzhugh** told Commissioners his company had worked with homeowners, as well as federal and state agencies to establish a dock and shoreline management plan. This plan is presently before the Federal Energy Regulatory Commission for approval. Once it is implemented, the homeowners or dock owners need to submit an application to PPL on the buoys. There are specific guidelines regarding distances and uses of buoys and docks around the lake. The Department's proposal is consistent with PPL's proposal.

**Galda** asked Mr. Fitzhugh if right after Memorial Day would be acceptable for conducting the public hearing. **Mr. Fitzhugh** said this time would be all right.

**ACTION:** **Mulligan** moved to initiate the rule making process, including public hearings, to consider the establishment of no-wake zones on Hebgen Lake as listed in the Department's proposal. Second by **Dascher**. **Motion carried.**

**19. SB 437 – Senator Mack Cole.** Senator Cole had hoped the legislation would help landowners and sportsmen. The objective was for landowners to have more involvement as far as hunters coming on their land. It was also to allow someone with 1800 acres with game damage to be able to have an either sex hunt on the land. The bill originally contained provisions for a number of big game animals, and was narrowed to elk as they are the main issue. Senator Cole said unless there is new legislation or SB 437 is expanded, problems between landowners and sportsmen will continue and will grow.

**Walker** pledged to do what he could to ensure SB 437 is worked with and implemented for the purposes of the Legislature. It is becoming increasingly difficult to get along with the various constituencies when they have to move back and forth between what was wanted and what was passed. **Walker** reaffirmed the department would continue with the rule making process and implementation of Legislation.

**20. Smith River Landowner Definitions – Final.** **Tom Reilly**, Assistant Administrator, Parks Division. The Commission decided this subject would not be addressed at this time.

**21. State Parks Futures Committee – Doug Monger**, Administrator, Parks Division. Summarized the background of the State Parks Futures Committee, including when it was formed and why. The original committee recommended the state divest itself of federal properties that it was managing for the federal government. Positive recommendations from the committee include using a portion of the bed tax for state parks. A \$3.50 license plate fee on recreational vehicles for park improvements are among items recommended. A Legislative Audit recommended consideration of re-implementing the State Parks Futures Committee. Governor Martz signed an Executive Order creating the second committee. The committee reports to the Governor's Office, FWP Commission, Montana FWP and the 2003 Legislature on actions they feel are necessary.

**Margaret Moddison**, Chairman, State Parks Futures Committee. **Ms. Moddison** reviewed the issues the committee is looking at and how the committee has been working. They are looking to develop a park in Region 6 where there are none now. Input from the public has been positive. **Dascher** asked the status of the additional funding issues. **Moddison** replied that there are two meetings scheduled that will deal with this topic. **Walker** inquired if the Committee plans to clarify existing legislation before going to the next Legislature. **Moddison** said it had not been determined at this time; however, the meeting in Three Forks will deal with legislative issues. There are legislators on the committee who are willing to assist in writing any legislation. **Walker** asked if it is the intent to prepare something prior to the meeting from which to start. **Monger** replied he envisions the committee addressing two or three pieces of legislation. Former Representative Rainey has been invited to the meeting to give his reasoning behind the present legislation. Park managers have also been invited to give their side of this issue. The Committee deserves credit for being willing to take on some of the hard issues.

Meeting adjourned at 9:45 a.m.

Approved this 21<sup>st</sup> day of March, 2002.

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**Dan L. Walker, Chairman**

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**M. Jeff Hagener, Director**